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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/750,474	12/28/2000	William J. Harrison	ACS-55966 (26991)	6584

24201 7590 11/25/2003

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EXAMINER

BUI, VY Q

ART UNIT PAPER NUMBER

3731

DATE MAILED: 11/25/2003

22

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/750,474

Applicant(s)

HARRISON, WILLIAM J.

Examiner

Vy Q. Bui

Art Unit

3731

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 10 November 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:


Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 1,3,4,6-11 and 13-31.

Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

Vy Bui

11/20/2003

Continuation of 2. NOTE: the applicant contended that ALLEN stent structure (Fig. 8, US 2001/0016770A1) and DANG stent structure (Fig. 6, US Pat. 5,935,162) were improperly characterized to read on the stent structure of the instant invention in the "Final Rejection". However, as clearly indicated and colored in the "Final Rejection", one of ordinary skill in the art can recognize different claimed elements of the instant invention in ALLEN's Fig. 8 and DANG's Fig. 6 as indicated in the "Final Rejection". ALLEN's and DANG's descriptions of the stent structures could label different elements with languages/terms/names different from languages/terms/names used in the instant invention. However, the identification of the elements of a stent structure as indicated in the "Final Rejection" are fully supported by ALLEN's Fig. 8 and DANG's Fig. 6. It would be reasonable for one of ordinary skill in the art to identify ALLEN's Fig. 8 and DANG's Fig. 6 in the same manner as in the "Final Rejection". In addition, the applicant contended that the identifications of the elements of ALLEN's Fig. 8 and DANG's Fig. 6 in the "Final Rejection" are inconsistent because the same element of ALLEN's Fig. 8 and DANG's Fig. 6 can be identified with different languages/terms/names. Again, it is very common in the art to claim the same structure with different languages/terms/names, therefore, it would be reasonable to call the same structure with different languages/terms/names as long as the elements in the references are presented in the drawings/structures. As long as the stent structures in the drawings of the references show the elements as claimed, the rejection should be applicable.